

MISSOURI COURT OF APPEALS WESTERN DISTRICT

COMPLETE TITLE OF CASE

CAROLEE NOBLE and LEO NOBLE and
JO ANN K. NILGES and WAYNE NILGES,

Appellants,

v.

SHAWNEE GUN SHOP, INC., d/b/a THE BULLET HOLE,

Respondent.

DOCKET NUMBER WD71254
(Consolidated with WD71255)

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: April 6, 2010

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable David M. Byrn, Judge

APPELLATE JUDGES

Division Three: Karen King Mitchell, Presiding Judge, and James Edward
Welsh and Mark D. Pfeiffer, Judges

ATTORNEYS

Randy W. James and Jessica M. Agnelly
Lee's Summit, MO

Attorneys for Appellants,

Kelly A. Ricke and Nicholas J. Meinheit
Overland Park, KS

Anthony Piscioti
Florham Park, NJ

Attorneys for Respondent.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

CAROLEE NOBLE and LEO NOBLE and)
JO ANN K. NILGES and WAYNE)
NILGES,)

Appellants,)

v.)

SHAWNEE GUN SHOP, INC., d/b/a THE)
BULLET HOLE,)

Respondent.)

**OPINION FILED:
April 6, 2010**

WD71254 (Consolidated with WD71255)

Jackson County

Before Division Three Judges:

Karen King Mitchell, Presiding Judge, and
James Edward Welsh and Mark D. Pfeiffer, Judges

Plaintiffs, who are the parents of decedents Luke A. Nilges and Leslie Noble Ballew, appeal the trial court's dismissal of their separate actions against defendant Gun Shop for lack of personal jurisdiction. On appeal, the plaintiffs allege that the trial court erred in holding that an out-of-state defendant's allegedly negligent actions had to be purposely directed at Missouri plaintiffs for the Missouri long-arm statute to apply.

REVERSED AND REMANDED.

Division Three holds:

This court holds that this appeal is not moot. While the Nilges plaintiffs had a case dismissed by a Kansas trial court for failure to state a claim, the Noble plaintiffs' action was voluntarily dismissed without prejudice. Therefore, no final judgment on the merits exists at least as to their claim and so this court must address the merits of the appeal.

The trial court dismissed the plaintiffs' actions against Gun Shop, a Kansas corporation, with its place of business located in Kansas, four miles from the Missouri state line, because it found that the court lacked personal jurisdiction over Gun Shop. Although the plaintiffs had alleged a tortious action that had consequences in Missouri, the court found that, because the

allegedly tortious conduct was not purposely directed at Missouri plaintiffs, the long-arm statute did not apply to Gun Shop.

This court holds that in this case, the long-arm statute does apply to Gun Shop. Because Gun Shop actively advertises to Missouri customers, has a significant amount of business from Missouri customers, and is located so near the state line, it is reasonably foreseeable that any allegedly negligent sales by Gun Shop would have consequences in Missouri. The court also finds that sufficient minimum contacts existed between Gun Shop and the State of Missouri so as to satisfy the requirements of due process.

Opinion by: Karen King Mitchell, Judge

April 6, 2010

* * * * *

THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.